

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAYMOND TORRES,

Plaintiff,

-v-

ICEYLEEN COOPER, PA, et al.,

Defendants.
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16 Civ 2488 (PAE) (RWL)¹

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Pro se plaintiff Raymond Torres brings this action under 42 U.S.C. § 1983 alleging that defendants violated his constitutional rights by requiring him to sleep on a single, thin mattress, exacerbating pre-existing medical back problems originating from a 2000 motor vehicle accident. Before the Court is the July 25, 2017 Report and Recommendation of the Hon. James C. Francis, United States Magistrate Judge, recommending that the Court dismiss all claims in this complaint. Dkt. 51 (“Report”). For the following reasons, the Court adopts this recommendation.

I. Background

The Court incorporates by reference the summary of the facts provided in the Report. *See* Report at 2–5.

On April 4, 2016, Torres filed a complaint. Dkt. 2. On June 27, 2016, Torres amended his Complaint. Dkt. 8. On May 16, 2017, Torres filed a third amended complaint. Dkt. 35. On June 20, 2017, the city moved to dismiss the third amended complaint. Dkts. 39–40. On June

¹ On November 2, 2017, the Hon. Robert W. Lehrburger was reassigned as the magistrate judge of record in this case.

26, 2017, the Court referred this case to Judge Francis for general pretrial supervision and for a report and recommendation. Dkt. 42. On July 6, 2017, Torres filed his opposition to the motion to dismiss. Dkt. 45. On July 10, 2017, defendants filed their reply memorandum in further support of their motion. Dkt. 47. On July 20, 2017, Torres filed a surreply. Dkt 49.

On July 25, 2017, Judge Francis issued his Report, recommending that the Court dismiss the third amended complaint with prejudice. Dkt. 51. On August 8, 2017, Torres filed a letter objecting the Report. Dkts. 53–54.²

II. Discussion

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When a party makes specific objections to a magistrate’s findings, the district court must make a *de novo* determination as to those findings. *Id.* § 636(b)(1). However, if a party “makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the Report strictly for clear error.” *Pinkney v. Progressive Home Health Servs.*, No. 06 Civ. 5023 (LTS) (JCF), 2008 WL 2811816, at *1 (S.D.N.Y. July 21, 2008), *aff’d*, 367 F. App’x 210 (2d Cir. 2010) (summary order). And, while *pro se* parties are, as always, treated leniently in making objections, their objections to a Report “must be specific and clearly aimed at particular findings.” *Id.*

Careful review of Judge Francis’s thorough and well-reasoned Report reveals that under either standard, *de novo* or clear error, the Report is correct; the Report is therefore adopted in its entirety.

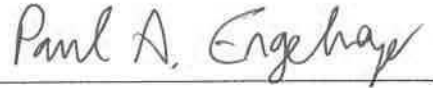
² Dkts. 53 and 54 are duplicates.

CONCLUSION

For the foregoing reasons, the Court dismisses all allegations in Torres's amended complaint with prejudice.

The Court respectfully directs the Clerk to mail a copy of this decision to plaintiff at the address on file and to close this case.

SO ORDERED.

A handwritten signature in cursive script, reading "Paul A. Engelmayer", written over a horizontal line.

Paul A. Engelmayer
United States District Judge

Dated: March 20, 2018
New York, New York